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10 Silicon Test Systems Inc., and Silicon Test Solutions LLC

11 United States District Court
12 Northern District of California, San Jose Division

13 VERIGY U.S. INC., a Delaware corporation

14 Plaintiff,

15 vs.

16 ROMI OMAR MAYDER, an individual;
17 WESLEY MAYDER, an individual;
18 SILICON TEST SYSTEMS INC., a
California corporation; SILICON TEST
19 SOLUTIONS LLC, a California limited
liability corporation,

20 Defendants.
21

) Case No. 5:07-cv-04330 (RMW) (HRL)

) **Declaration of Dan Fingerman Re Electronic**
) **Case Filing Technical Failure**

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1 I, Dan Fingerman, declare:

2 1. I am an attorney with the law firm of Mount & Stoelker, P.C., counsel for the
3 Defendants in this action, Romi Mayder, Wesley Mayder, Silicon Test Systems Inc., and Silicon Test
4 Solutions LLC (collectively, "Defendants"). I have personal knowledge of the facts set forth in this
5 declaration and, if called upon to testify in this Court as to those facts, my testimony would be as
6 stated herein.

7 2. This declaration is intended to comply with the requirements of General Order 45
8 VI.E., describing efforts to electronically file a document.

9 3. On October 22, 2007, I attempted several times to e-file the defendants' letter brief in
10 support of the defendants' [Proposed] Order Regarding Verigy US, Inc.'s Motion to Compel and
11 Setting Forth Protocol for Examination of Disk Drive. Eventually, I was able to file this document at
12 approximately 5pm, as Docket No. 78.

13 4. Magistrate Judge Lloyd had ordered the parties to file letter briefs by noon on October
14 22, 2007. Therefore, I tried several times to reach the ECF web site on the morning of this day.

15 5. At approximately 12:50pm, I sent via messenger a paper chambers copy of the letter
16 brief and its attachments to Magistrate Judge Lloyd's courtroom. Exhibit A hereto is a copy of the
17 cover letter that accompanied the chambers copy.

18 6. Also at 12:50pm, I sent via electronic mail a copy of the defendants' letter brief and its
19 attachments to Verigy's counsel — to avoid any prejudice to Verigy. Exhibit B hereto is a copy of
20 that email to Verigy's counsel. I received a return email from Verigy's counsel at approximately
21 1:05pm, indicating that she had received and read the defendants' letter brief. Verigy's counsel also
22 returned the professional courtesy of providing a copy of Verigy's letter brief by electronic mail.

23 7. Each time I attempted to reach the ECF web site, my web browser received no
24 response from the server. I also attempted several times to reach the Northern District of
25 California's home page as well as the home pages of other District Courts and other web sites that are
26 subdomains of the uscourts.gov domain. Before 5pm, I was not able to reach any of these web sites.

27 8. Two other people in my office also attempted to reach the ECF web site during this
28 time to e-file the document. Both of them also received no response from the web server. In all, we

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1 attempted to reach the ECF web site from three different computers, using at least four different web
2 browsers from within our office.

3 9. At 11:50am, I placed a phone call to the ECF help desk to request assistance. Nobody
4 answered that call, so I left a voicemail message in which I explained the problem and requested a
5 return call. I received a return call from a member of the ECF staff, named Will, at approximately
6 1:20pm. Will was unable to resolve the problem.

7 10. In addition to my attempts to e-file the document during the morning, I also attempted
8 to e-file the document at 12:00pm, at 12:45pm, 1:20pm, 1:40pm, 2:25pm, 3:25pm, and 4:20pm. I
9 was finally able to reach the ECF web site at approximately 5pm, and I emailed the document at that
10 time.

11 11. After my attempt to e-file the document at 4:20pm, I called the ECF helpdesk again. I
12 received a recorded message stating that the helpdesk's hours end at 4pm, so I left another voicemail
13 message in which I explained the problem and requested a return call.

14 12. My attempts to e-file the document at 4:20pm and 5pm were made from a computer
15 network outside my office (and using a different computer), since it was conceivably possible that a
16 problem in my office's computer network might somehow be responsible for my inability to access
17 the court's web site. Still, I could not access the court's web site, even from a different computer
18 network, until approximately 5pm.

19 13. At all times prior to 5pm, I was similarly unable to reach any web site that is a
20 subdomain of uscourts.gov — including the Northern District of California's main web site.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is true
22 and correct and that this declaration was executed on the date below at San Jose, California.

23
24 Dated: October 22, 2007

25 /s/
Daniel H. Fingerman